

REMARKS

Claims 27-31 again stand rejected under 35 U.S.C. 102(e) as being anticipated by Song et al. (U.S. 6,710,837). Applicant respectfully traverses this rejection for the reasons of record, and as follows. The Examiner has not established a *prima facie* case of anticipation against the present invention.

Applicant maintains and incorporates by reference herein those arguments previously advanced on pages 4-7 of Amendment A, filed September 23, 2004. Applicant respectfully requests that the Examiner reconsider those arguments, and withdraw this Section 102 rejection. Additionally, Applicant respectfully requests that the Examiner consider new arguments, and expansions upon the previous arguments.

The Examiner's assertion, on page 4 of Paper No. 0904, that Figs. 17 and 18 of Song "clearly show that the vertical portion of the protrusion pattern 170 is an assembly of plurality (sic) orientation control elements which are connected together along the edge of the pixel electrode 200 and the direction 444," is erroneous. Nowhere does Song teach (or even suggest) that the protrusion pattern 170 is anything other than a single, continuous shape. Every description of the protrusion 170, with respect to Figs. 17 and 18, is in the singular form. (See col. 10, line 58 to col. 11, line 45). Furthermore, neither Fig. 17 nor Fig. 18 show any break in the continuous structure of the protrusion pattern 170. Applicant respectfully suggests that perhaps the Examiner has mistaken the dashed line in Fig. 18, which denotes the pixel boundary, or the hatching marks in both Figs. 17 and 18, which merely highlight the

pattern 170 as distinct from the other features of the drawings, for structural breaks in the pattern 170. Such interpretations, however, would not be supported by the text of Song.

Additionally, Applicant respectfully points out that Song does positively describe the protrusion 170 in the plural form with respect to other embodiments that are not analogous to the present invention, when the protrusion 170 actually denotes plural elements collectively. Because of Song's consistency in this regard, the only reasonable interpretation for the protrusion pattern 170 in Figs. 17 and 18 can be that the pattern is a single, continuous structure, and not a plurality of separate, distinct elements. For at least these reasons, in addition to the reasons of record, a *prima facie* case of anticipation has not been established against claim 27 of the present invention, and the rejection thereto should be withdrawn.

With respect to the Examiner's remarks in regard to claim 28 of the present invention, Applicant submits that the Examiner's reversal of his earlier position renders the merits of Applicant's arguments above even more apparent. The Examiner now asserts that Song's protrusion pattern 170, as it appears in Figs. 17 and 18, satisfies the limitations of the first and second orientation control elements of the present invention. The Examiner's new position though, actually even further teaches away from claim 28 of the present invention.

Claim 28 features that the second orientation control element is formed to extend in an outer direction from the first orientation control element which is adjacent to the second orientation control element on the same substrate, and also that the second orientation control element is constituted by an assembly of plural orientation control elements itself. No

structure in Figs. 17 and 18 of Song, however, can read upon all of this clearly recited language from claim 28. For the Examiner's new position to be correct, the Examiner must be able to identify an assembly of plural orientation control elements formed to extend in an outer direction from the horizontal portion of the pattern 170 adjacent to such an assembly. No such assembly of plural elements, however, appears in either Figs. 17 or 18. Adjacent each horizontal portion of the pattern 170 exists only a single, continuous shape extending in an outward direction.

Although the Examiner is charged with responsibility to give the claims of the present invention their broadest reasonable interpretation, the Examiner is still required to interpret the claims according to the Specification of the Application. The recited assembly of plural elements is clearly illustrated in Figs. 19A and 20A of the present Application, for example, and the Examiner has already made the legal determination that the embodiments shown in Figs. 19A and 20A of the present Application are distinct inventions from those embodiments that show the second orientation control element as a single, continuous structure. (Election/Restriction Requirement, mailed July 30, 2003, in the parent Application Serial No. 10/047,216).


In addition to the previous arguments, therefore, the Section 102 rejection against the present invention must be withdrawn because the Examiner should be estopped by his own Election/Restriction Requirement from asserting that single, continuous structures for the second orientation control element are equivalent to the assembly of plural elements,

as featured in all of the claims of this divisional Application. Unless the Examiner affirmatively withdraws the earlier Election/Restriction Requirement, the Section 102 rejection should also be withdrawn for at least these additional reasons.

For all of the foregoing reasons, Applicant submits that this Application, including claims 27-31, is in condition for allowance, which is respectfully requested. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

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